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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/487,962	01/18/2000	Dimitri P M Speck	DSK-101	3779
30869	7590	08/16/2004	EXAMINER	
LUMEN INTELLECTUAL PROPERTY SERVICES, INC. 2345 YALE STREET, 2ND FLOOR PALO ALTO, CA 94306			NGUYEN, NGA B	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/487,962

Applicant(s)

SPECK, DIMITRI P M

Examiner

Nga B. Nguyen

Art Unit

3628

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-3 and 5-24.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Nga B. Nguyen

Continuation of 2. NOTE: The feature added to the claims "enabling the investors to bet on the potential outcomes against each other" requires the examiner performs further consideration and search.

Continuation of 5. does NOT place the application in condition for allowance because: In the telephone interview on June 9, 2004, examiner agreed to withdraw the finality, but after carefully reviewing and comparing the cited prior arts with the claimed invention, consulting the consideration from other examiners, examiner decides to maintain the final rejection for the following reasons: In the arguments, applicant stated that: Byrne's invention does not disclose:

1. None of the progressive linked gaming machines identify an uncertain event having potential outcomes, examiner disagrees. See Byrne's, column 14, lines 47-56, each of progressive linked gaming machines generates an outcome of the play cycle, the outcome being one of a plurality of possible outcomes, at least one of the outcomes being a progressive jackpot winning outcome.

2. None of progressive linked gaming machines perform the claimed steps c) and d), examiner disagrees. Step c) cited "receiving bets from the investors for each of the potential outcomes during the first betting cycle to accumulate an initial bet total". See Byrne's, column 4, lines 31-35, 50-55, the investor may purchase many shares per division, thus the investor is placing a bet for the potential outcomes; column 14, lines 60-62, an progressive jackpot is equivalent to "an initial bet total". Step d) cited that issuing equal number of outcome shares, the outcome shares corresponding to the potential outcomes. See Byrne's, column 3, lines 1-20, column 5, lines 1-45, issuing equal number of Super Keno shares.

3. "Share" does not correspond to potential outcomes, examiner disagrees. In Byrne's, a Super Keno share is determined based on the jackpot winning outcome, thus "share" in Byrne's corresponds to potential outcome.

In conclusion, examiner understands the different between the invention with the Byrne's reference, unfortunately, the claimed invention does not distinguish over Byrne's for the reason stated above, therefore, examiner decides to maintain the final rejection. Examiner apologizes for the earlier decision made in the telephone interview on June 9, 2004.